

SM-22-00012023

23 February 2022

Minoshi Weerasinghe
Senior Planning Officer
Department of Planning, Industry and Environment

By Email: Minoshi.Weerasinghe@planning.nsw.gov.au

Dear Sir

**State Environmental Planning Policy (Infrastructure) 2007
State Significant Development Application – SSD-12618001
104-116 Regent Street, Redfern**

Thank you for your email dated 25 January 2022 inviting Sydney Metro to comment on State Significant Development Application SSD-12618001 (SSD) submitted by The Trust Company (Australia) Limited ATF Wee Hur Regent Trust (Applicant) in accordance with clause 86 of the *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP).

Transport for NSW (TfNSW) has delegated its rail authority functions in relation to the Sydney Metro - City & Southwest rail corridor to Sydney Metro. Therefore, Sydney Metro is the relevant rail authority for the Sydney Metro - City & Southwest rail corridor for the purpose of the ISEPP.

Concurrence of Sydney Metro is not required

Sydney Metro understands that the DA is State Significant Development (SSD) for the construction of an 18-storey building comprising a total of 9,562m² gross floor area with a mix of land use activities, including student accommodation.

As this is a SSD application, the provisions of clause 86 of the State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) do not apply.

Section 4.13(2A) of the Environmental Planning and Assessment Act 1979 excludes concurrence or consultation requirements from applying to development applications for SSD, unless an environmental planning instrument requires concurrence or consultation to SSD. As clause 86 of the ISEPP does not require concurrence to be provided in the context of a development application for SSD, concurrence is not required for the DA.

Notwithstanding this, in order to ensure the appropriate management and mitigation of the proposed development's impacts on Sydney Metro - City & Southwest rail corridor, Sydney Metro has reviewed the Application documents that were exhibited on the NSW Major Projects site from 25 January 2022 to 21 February 2022, including having regard to the matters outlined in the ISEPP.

Based on this review, Sydney Metro is of the view that the proposed development would have an adverse impact on the Sydney Metro - City & Southwest rail corridor unless conditions are imposed on the development, should development consent be granted. This

is because the proposed plans indicate more than 2 metres of excavation is proposed within 25 metres of the Sydney Metro – City & Southwest rail corridor

Conditions requested in event of approval of the DA

If the consent authority determines to grant consent to the DA, Sydney Metro requests that the conditions in *Attachment A* be imposed on the development consent.

Next steps

If, at any point, the DA is amended prior to the consent authority's determination, please ensure that the amended DA and any new or amended supporting documents are provided to Sydney Metro for further assessment. Any amendments to the DA may alter the impacts of the proposed development on the Sydney Metro - City & Southwest rail corridor assessed by Sydney Metro, so Sydney Metro may need to vary any requested conditions.

Sydney Metro would be grateful if a copy of the Notice of Determination and any conditions of consent for the DA be forwarded to Sydney Metro should the consent authority determine to grant consent to the DA.

In the event that the proposed development is the subject of a Land and Environment Court appeal, the consent authority is requested to notify Sydney Metro.

Sydney Metro thanks NSW Department of Planning, Industry and Environment for its assistance.

Please contact Peter Bourke, Senior Manager Corridor Protection or Sophie Butcher at sydneymetrocorridorprotection@transport.nsw.gov.au should you have any further queries on this matter.

Yours sincerely



Stephen Scott

Deputy Executive Director

Northwest Operations

104-116 Regent Street, Redfern (SSD-12618001)

Attachment A

1 Prior to issue of a Construction Certificate

Engineering

- 1.1 The Certifier must not issue a Construction Certificate for the development unless the Applicant has submitted to Sydney Metro and Sydney Metro has provided written approval of the following items:
- (a) Final construction drawings for the Construction Certificate;
 - (b) The following documents will need to be revised once the detailed design becomes available:
 - (i) Impact Assessment Report and Monitoring Plan (Ref No. GKA REG 004) prepared by GKA Management dated 7 December 2021.
 - (ii) Preliminary Numerical Modelling and Impact Assessment (R.001.Rev0) prepared by Douglas Partners dated 16 November 2021.
 - (c) The construction management plan will need to be revised once the detailed design becomes available.
 - (d) A report or statement assessing the impact of crane loading on the Sydney Metro tunnels.

Prior to the commencement of works, the Certifier must provide written verification to Sydney Metro that this condition has been complied with.

Rail Corridor:

- 1.2 All structures must be designed, constructed and maintained so as to allow for the future operation and demolition of any part of the development without damaging or otherwise interfering with the Sydney Metro - City & Southwest rail corridor or rail operations. Where any part of the development is to be retained because its demolition would damage or otherwise interfere with the Sydney Metro - City & Southwest rail corridor or rail operations, that part of the development must have a minimum design life of 100 years.

Survey and services

- 1.3 Prior to the issue of a Construction Certificate:
- (a) the Applicant must provide Sydney Metro with an accurate survey of the development and its location relative to the rail corridor boundary and any rail infrastructure. The survey is to be undertaken by a registered surveyor, to the satisfaction of Sydney Metro; and
 - (b) a registered surveyor shall peg-out the common property boundary between the development site and the rail corridor and any Sydney Metro easements to ensure that there is no encroachment by the development. A copy of the survey report indicating the location of pegs must be provided to Sydney Metro prior to the commencement of works.

- 1.4 Prior to the issue of a Construction Certificate, the Applicant must undertake a services search to establish the existence and location of any rail services and provide the results of the search to Sydney Metro. Persons performing the service search shall use equipment that will not have any impact on rail services and signalling. Should rail services be identified within the development site, the Applicant must discuss with Sydney Metro whether the services are to be relocated or incorporated within the development site.

Noise & Vibration

- 1.5 The development must:
- (a) *comply with State Environmental Planning Policy (Infrastructure) 2007 and the NSW Department of Planning & Environment's document titled "Development Near Rail Corridors and Busy Roads - Interim Guideline" (2008) and the Sydney Metro Underground Corridor Protection Guidelines (available from www.sydneymetro.info);*
 - (b) *be designed, constructed and maintained so as to avoid damage or other interference which may occur as a result of air-borne noise, ground-borne noise and vibration effects that may emanate from the rail corridor during rail construction and operations; and*
 - (c) *not have any noise or vibration impacts on the rail corridor or rail infrastructure.*
- 1.6 The Applicant must incorporate as part of the development all the measures recommended in the Noise and Vibration Impact Assessment (Ref No. 20210248.1/1512A/R2/AR – Revision 2) prepared by Acoustic Logic dated 15 December 2021. A copy of the acoustic assessment report is to be provided to the Certifier and Council prior to a Construction Certificate being issued by the Certifier. The Certifier must ensure that the recommendations of the acoustic assessment report are incorporated in the construction drawings and documentation prior to issuing a Construction Certificate for the development.

Electrolysis

- 1.7 Prior to the issue of a Construction Certificate, the Applicant is to engage an electrolysis expert to prepare a detailed report, including design drawings, on the electrolysis risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the electrolysis report to control that risk. A copy of the electrolysis report is to be provided to the Certifier with the application for a Construction Certificate. Prior to issuing a Construction Certificate for the development, the Certifier must ensure that the recommendations of the electrolysis report are incorporated in the construction drawings and documentation.

Design

- 1.8 The roots and foliage of trees planted beside the rail corridor as part of the development must not impact on the rail corridor or rail operations. If required, a final landscaping and planting plan demonstrating measures to ensure compliance with this condition must be prepared to the satisfaction of Sydney Metro. The Certifier must not issue a Construction Certificate for the development until written confirmation has been received from Sydney Metro that this condition has been satisfied.

Construction

- 1.9 No work is permitted within the rail corridor, or any easements which benefit Sydney Metro, at any time, unless the prior approval of, or an Agreement with, Sydney Metro has been obtained by the Applicant. The Certifier must not issue a Construction Certificate for the development until written confirmation has been received from Sydney Metro that this condition has been satisfied.
- 1.10 No rock anchors, rock bolts, ground anchors or rock ties, piles, foundations, rock pillars, transfer structures, basement walls, slabs, columns, beams, cut rock faces, are to be installed in the rail corridor, Sydney Metro property or easements. The Certifier must not issue a Construction Certificate for the development until it has received written confirmation from Sydney Metro that this condition has been satisfied.
- 1.11 Prior to the issuing of a Construction Certificate, the following information must be submitted to Sydney Metro for review and endorsement:
- (a) Machinery to be used during excavation/construction; and
 - (b) Demolition, excavation and construction methodology and staging.

The Certifier must not issue a Construction Certificate for the development until it has received written confirmation from Sydney Metro that this condition has been satisfied.

- 1.12 If required by Sydney Metro, prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements for the proposed works are to be submitted to Sydney Metro for review and endorsement regarding impacts on the rail corridor. The Certifier must not issue a Construction Certificate for the development until written confirmation has been received from Sydney Metro that this condition has been satisfied.
- 1.13 If required by Sydney Metro, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Metro's Corridor Protection Team to determine the need for public liability insurance cover and the level of insurance required. If insurance cover is deemed necessary, the Applicant must obtain insurance for the sum determined by Sydney Metro and such insurance shall not contain any exclusion in relation to works on or near the rail corridor or rail infrastructure and must be maintained for the period specified by Sydney Metro. Prior to issuing a Construction Certificate for the development, the Certifier must witness written proof of any insurance required by Sydney Metro in accordance with this condition, including the written advice of Sydney Metro to the Applicant regarding the level of insurance required.

Reason: construction of the proposed development presents a risk of potential damage to the Sydney Metro - City & Southwest rail corridor which is not in the public interest. This risk of damage to public infrastructure must be appropriately managed and mitigated.

- 1.14 If required by Sydney Metro, prior to the issue of a Construction Certificate the Applicant must contact the Sydney Metro Corridor Protection Team to determine the need for the lodgement of a bond or bank guarantee for the duration of the works and the sum of any required bond or bank guarantee. Prior to issuing a Construction Certificate for the development, the Certifier must witness written

confirmation from Sydney Metro that the Applicant has lodged any bond or bank guarantee required by this condition.

Reason: construction of the proposed development presents a risk of potential damage to the Sydney Metro - City & Southwest rail corridor which is not in the public interest. This risk of damage to public infrastructure must be appropriately managed and mitigated.

Drainage

- 1.15 The Applicant must ensure that all drainage from the development is adequately disposed of and managed and must ensure that no drainage is discharged into the railway corridor unless prior written approval has been obtained from Sydney Metro. The Certifier must not to issue a Construction Certificate or Occupation Certificate for the development unless this condition has been satisfied.

Documentation

- 1.16 Copies of any certificates, drawings, approvals or documents endorsed by, given to or issued by Sydney Metro must be submitted to Council for its records prior to the issue of any Construction Certificate.

2 During construction

Supervision

- 2.1 Unless advised by Sydney Metro in writing, all excavation, shoring and piling works within 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects and who holds current professional indemnity insurance.

Consultation

- 2.2 The Applicant must ensure that at all times they have a representative (which has been notified to Sydney Metro in writing), who:
- (a) *oversees the carrying out of the Applicant's obligations under the conditions of this consent and in accordance with correspondence issued by Sydney Metro;*
 - (b) *acts as the authorised representative of the Applicant; and*
 - (c) *is available (or has a delegate notified in writing to Sydney Metro that is available) on a 7 day a week basis to liaise with the representative of Sydney Metro as notified to the Applicant.*
- 2.3 Without in any way limiting the operation of any other condition of this consent, the Applicant must, during demolition, excavation and construction works, consult in good faith with Sydney Metro in relation to the carrying out of the development works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Metro in relation to the works.
- 2.4 Where a condition of consent requires consultation with Sydney Metro, the Applicant shall forward all requests and/or documentation to the relevant Sydney Metro interface team.

Inspections

- 2.5 If required by Sydney Metro, the Applicant must give Sydney Metro written notice at least 5 business days before any of the following events occur within 25 metres of the rail corridor:
- (a) *site investigations;*
 - (b) *foundation, pile and anchor set out;*
 - (c) *set out of any other structures below ground surface level or structures which will transfer any load or bearing;*
 - (d) *foundation, pile and anchor excavation;*
 - (e) *other excavation;*
 - (f) *surveying of foundation, pile and anchor excavation and surveying of as-built excavations;*
 - (g) *other concreting; or*
 - (h) *any other event that Sydney Metro has notified to the Applicant in writing so that Sydney Metro may inspect the carrying out or completion of those works on the development site.*
- 2.6 If required by Sydney Metro, prior to the commencement of works or at any time during the excavation and construction period deemed necessary by Sydney Metro, a joint inspection of the rail infrastructure and property in the vicinity of the development is to be carried out by representatives from Sydney Metro and the Applicant and a dilapidation survey prepared. The dilapidation survey(s) will establish the extent of any existing damage and enable any deterioration during construction to be observed and rectified at the Applicant's cost. The submission of a detailed dilapidation report by the Applicant for review and approval by Sydney Metro will be required within 10 days following the undertaking of any joint inspection, unless otherwise notified by Sydney Metro in writing.

3 Prior to the issue of an Occupation Certificate

Documentation

- 3.1 Prior to the issue of an Occupation Certificate, the Applicant is to submit as-built drawings to Sydney Metro and Council. The as-built drawings are to be endorsed by a registered surveyor confirming that there has been no encroachment into the rail corridor or Sydney Metro easements, unless agreed to by Sydney Metro in writing. The Certifier must not issue an Occupation Certificate until written confirmation has been received from Sydney Metro that this condition has been satisfied.
- 3.2 Copies of any certificates, drawings, approvals or documents endorsed by, given to or issued by Sydney Metro must be submitted to Council for its records prior to the issue of any Occupation Certificate.

4 General

Inspections

- 4.1 At any time during the construction of the development, Sydney Metro and persons authorised by those entities may give reasonable notice to the Applicant or the

Applicant's principal contractor that Sydney Metro or persons authorised by that entity seek to:

(a) inspect the development site and all works and structures that may impact on the rail corridor, including at specified "hold points" in the construction of the development; and

(b) attend on-site meetings with the Applicant and its contractors,

to enable Sydney Metro to determine whether the development has been or is being constructed and maintained in accordance with all approved plans and this development consent.

Other

4.2 Any conditions or other requirements imposed by Sydney Metro part of its approval/endorsement of any documents provided by the Applicant to Sydney Metro in accordance with these conditions of consent must also be complied with by the Applicant when implementing any approved/endorsed documents, plans, reports during the construction and operation of the development (as applicable).

4.3 Where a condition of consent requires Sydney Metro endorsement or approval, the Certifier must not to issue a Construction Certificate or Occupancy Certificate, as the case may be, until written confirmation has been received from those entities that the particular condition has been complied with. The issuing of staged Construction Certificates by the Certifier dealing with specific works and compliance conditions can only occur subject to written confirmation from Sydney Metro.

4.4 All reasonable Sydney Metro costs associated with review of plans, designs and legal must be borne by the applicant.